



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/762,586	02/09/2001	Toshiaki Furuhashi	0649-0774P	5716

2292 7590 09/23/2003

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER

TRAN LIEN, THUY

ART UNIT	PAPER NUMBER
----------	--------------

1761

21

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/762,586

Applicant(s)

FURUHASHI ET AL.

Examiner

Lien T Tran

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 10-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 5-7, 12, 13 and 16-22 is/are allowed.
- 6) ☒ Claim(s) 4, 10, 11, 14-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Art Unit: 1761

1. The objection to the specification for introducing new matter into the disclosure is hereby withdrawn due to the amendment filed July 3, 2003 which cancelled the new material.
2. The 112 first paragraph rejection of claims 1 and 22 is hereby withdrawn.
3. Upon further consideration, the indication of allowability of claims 4,10,11 and 14-15 is hereby withdrawn because these claims do not contain the limitation of "voids and chemical leavening agent are present between the dough layers and the fat layer". This limitation is the one that is found to define over the prior art as argued by the applicant in the previous responses. The rejection is as followed.
4. Claims 4, 10, 11 and 14 -15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yong et al (4381315).

Yong et al disclose a method of making a refrigerated dough product. Yong et al teach two methods of incorporating a leavener into the dough when forming a laminated dough. The laminated dough has alternating layers of flour/water matrix and shortening. The number of layers of shortening interspersed within the flour/water matrix can vary from 4 to 1000. When using a lamination process the leavener can be incorporated by sprinkling one or both of leaveners onto the shortening after it is applied to a surface of the flour/water matrix and prior to laminating the shortening and leavener into the dough. A still further method of incorporating leaveners is to sprinkle one or both of the leaveners on the flour/water matrix or dough. When using this method, the shortening can be incorporated by lamination. The density of dough after proofing in

Art Unit: 1761

the containers is between about 1.15g/cc and about .61g/cc. Some of the leavening agent remains unreacted. (See col. 8-10)

Yong et al do not disclose the dough is a pie dough, freezing the dough and baking at high temperature and in a short period of time.

There is no standard of identity defined for the pie dough as claimed. The dough disclosed by Yong et al contains the same ingredients such as cereal flour, water and a fat as claimed; thus, it can be considered a pie dough. The dough disclosed by Yong et al also has alternating layers of dough and fat resulting from the lamination process. The leaveners in the Yong et al dough are applied in the same way as the claimed methods. The leaveners disclosed on column 7 lines 40-55 include both quick action type and delayed action type. It would have been obvious to use a combination of both and in a certain ratio depending upon on the type of leavening reaction desired; this can readily be determined by one skilled in the art. While Yong et al teach to refrigerate the dough, it would have been obvious to one skilled in the art to freeze the dough for longer storage as it is well known that a product is kept for a longer period of time in frozen condition than in refrigerated condition. As to baking as a high temperature for a short period of time, it is not known what will be considered as high temperature and short period of time. It would have been obvious to one skilled in the art to determine the appropriate baking temperature and time depending on the type of oven used, the type of dough to be baked and the degree of baking desired.

Art Unit: 1761

5. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 22: Lines 9 and 11 are indefinite because they recite plural chemical leavening agents while lines 5,7 recite a single leavening agent. It is not clear what is intended.

6. Claims 1-3, 5-~~8~~, 12-13 and 16-22 are allowable for reason of record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T Tran whose telephone number is 703-308-1868. The examiner can normally be reached on Wed-Fri. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

September 20, 2003


LIEN TRAN
PRIMARY EXAMINER
